IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

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PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 15819 of 2004

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Between:

1 Katchalla Appala Naidu, S/o.Peddappanna,
R/o.Mamidipalem Village, Makavarapalem Mandal,
Visakhapatnam Dist.
2 Rajana Rajulamma, W/o.Rajana China Rajulu,
R/o.Mamidipalem Village, Makavarapalem Mandal,
Visakhapatnam Dist.

..... PETITIONERS

AND

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1 The District collector, Visakhapatnam.
2 The M.R.O. Makavarapalem Mandal, Visakhapatnam

District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, more particularly one in the nature of writ of mandamus, declaring the action of the respondent No.2 in seeking to dispossess the petitioners from the land in survey Nos.554/1 and 544/1, having an extent of acres 3.16 and 3.40 respectively, situated at Boorugupalem village, Makavarapalem Mandal, Visakhapatnam District, as being illegal, arbitrary and unconstitutional and in violative of principles of natural justice and issue a consequential direction directing the respondents not to dispossess the petitioners from the land in their occupation without following the due process of law and further direct the 2nd respondent to issue the 'D' Form pattas in favour of the petitioners in respect of the land in their occupation.

Counsel for the Petitioner: MR.G.NAGARAJU

Counsel for Respondents: GP FOR REVENUE

The Court at the admission stage made the following :

ORDER:

The petitioners, who are claim to be in possession of the property in S.No.554/1 and 544/1 to an extent of Acs.3.16 and Acs.3.40 respectively, situated in Boorgupalem village of Makavarapalem Mandal, Visakhapatnam District, made representations to the authorities for grant of D-form pattas, since they are in continuous possession and enjoyment of the land for the past 20 years and have satisfied the eligibility criteria for grant of D-form pattas. They state that after enquiry, D-form pattas were prepared by the Revenue authorities but the same were not issued so far. While the matter is pending in the first week of August 2004 the second respondent summoned the petitioners directing them to surrender two acres of land out of the total land to allot the same to the third parties.

It is well settled in the judgment of this court in **G. Kanthayya and others vs. The District Collector, Warangal and others** wherein this court held that when applications for assignments are pending, it is the duty of the authorities to consider them and to accord assignment. In case they are found ineligible then action is to be taken by issue of notice under Section 7 of the Land Acquisition Act and passing order under Section 6 of the Act. Abnegation to obey the salutary procedure would be arbitrary, unjust and illegal violating fair procedure and any action taken in derogation thereof would be deprivation of right to livelihood to the poor offending Article 21.

In view of the same unless certain proceedings are initiated for due eviction of the petitioner, in anticipation of the same no mandamus can be issued to the respondents on mere apprehension of the same. But it is observed that before evicting the petitioners from the land in question, the respondents have to necessarily follow the due procedure prescribed by law including that of the law declared by this court in the abovementioned decision.

Accordingly the Writ Petition is dismissed at the admission stage.

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A. Gopal Reddy, J.

3rd September, 2004.

Js.

To

1 The District collector, Visakhapatnam.
2 The M.R.O. Makavarapalem Mandal, Visakhapatnam

District.

3 2 CCs to G.P. for Revenue, High Court Buildings, Hyderabad.

4 2 CD copies.